

[First Reprint]

SENATE, No. 2251

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED OCTOBER 16, 2008

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District 18 (Middlesex)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

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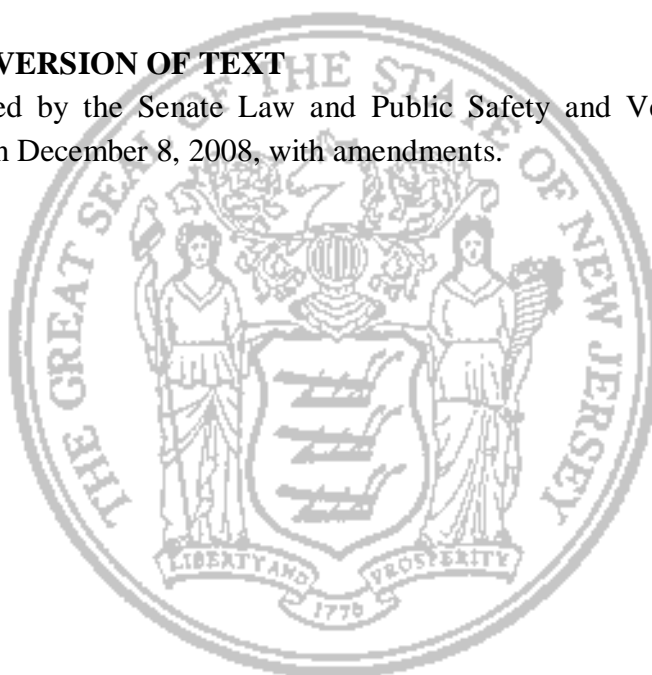
Senator Turner

SYNOPSIS

Prohibits sale of products containing dextromethorphan to minors under 18 years of age.

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety and Veterans' Affairs Committee on December 8, 2008, with amendments.



(Sponsorship Updated As Of: 6/26/2009)

1 AN ACT concerning the sale of dextromethorphan to minors and
2 supplementing Title 2A of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. No person, either directly or indirectly by an agent or
8 employee, shall sell or offer to sell to a person under 18 years of
9 age any product containing dextromethorphan.

10 b. The establishment of all of the following shall constitute a
11 defense to any prosecution brought pursuant to subsection a. of this
12 section:

13 (1) that the purchaser of the product falsely represented, by
14 producing either a driver's license or non-driver identification card
15 issued by the New Jersey Motor Vehicle Commission , a similar
16 card issued pursuant to the laws of another state or the federal
17 government '~~[of]~~ or¹ Canada, or a photographic identification card
18 issued by a county clerk, that the purchaser was of legal age to
19 make the purchase;

20 (2) that the appearance of the purchaser of the product was such
21 that an ordinary prudent person would believe the purchaser to be of
22 legal age to make the purchase; and

23 (3) that the sale of the product was made in good faith, relying
24 upon the production of the identification set forth in paragraph (1)
25 of this subsection, the appearance of the purchaser, and in the
26 reasonable belief that the purchaser was of legal age to make the
27 purchase.

28 c. A person who violates the provisions of subsection a. of this
29 section, including an employee of a retail establishment who
30 actually sells a product containing dextromethorphan to a person
31 under 18 years of age, shall be liable to a civil penalty of not
32 '~~[less]~~ more¹ than \$250 for a first violation, not '~~[less]~~ more¹ than
33 \$500 for a second violation, and 'not more than¹ \$1,000 for a
34 '~~[the]~~¹ third and each subsequent violation. In the case of a retail
35 establishment that is part of a chain with two or more locations in
36 the State, the violation shall be 'assessed¹ against the particular
37 retail establishment and not the chain. The civil penalty shall be
38 collected pursuant to the "Penalty Enforcement Law of 1999,"
39 P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding
40 before the municipal court having jurisdiction. An official
41 authorized by statute or ordinance to enforce the State or local
42 health codes or a law enforcement officer having enforcement
43 authority in that municipality may issue a summons for a violation
44 of the provisions of subsection a. of this section, and may serve and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLP committee amendments adopted December 8, 2008.

- 1 execute all process with respect to the enforcement of this section
2 consistent with the Rules of Court. A penalty recovered under the
3 provisions of this subsection shall be recovered by and in the name
4 of the State by the local health agency. The penalty shall be paid
5 into the treasury of the municipality in which the violation occurred
6 for the general uses of the municipality.
- 7 d. The provisions of this act shall not apply to any prescription
8 medication containing dextromethorphan that is dispensed by a
9 pharmacist pursuant to a valid prescription.
- 10
- 11 2. This act shall take effect on the 90th day after enactment.